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Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, SW
Room CY-B402
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

APR 18 2003

RECEIVED

Re: **Corrected* Notice of Ex Parte Presentation*
Petition of US LEC Corp. for a Declaratory Ruling Regarding LEC
Access Charges for CMRS Traffic, CC Docket No. 01-92

Dear Ms. Dortch:

On April 17, 2003, in accordance with section 1.1206 of the Commission's rules, 47 C.F.R. 1.1206, ITC\DeltaCom Communications Inc., d/b/a ITC\DeltaCom, through its attorneys, filed a notice of *ex parte* presentation. The notice inadvertently excluded the name of one of the meeting participants, and, therefore, ITC\DeltaCom files this corrected notice of *ex parte* presentation.

On April 17, 2003, Steve Brownworth and Jerry Watts, both from ITC\DeltaCom, and Robert Aamoah and the undersigned, counsel to ITC\DeltaCom, and Hank Hultquist, MCI, met with the following individuals from the Wireline Bureau: John Muleta, Cathy Seidel, Jennifer Tomchin, Jared Carlson, and Walter Strack.

During the meeting, we discussed the issues raised in US LEC's petition, and explained the applicable call routing scenarios. ITC\DeltaCom distributed the attached presentation at the meeting, which summarizes the substance of the presentation.

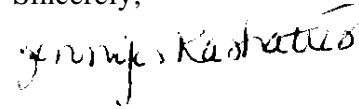
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Marlene H. Dortch, Secretary
April 18, 2003
Page Two

Please contact me at (202) 887-1234 if you have any questions regarding this
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Sincerely,



Jennifer **M.** Kashalus

Attaciiinent

cc: John Mulca
Cathy Seidel
Jennifer Tomchin
Jared Carlson
Walter Strack
Victoria Schlesinger (3 copies)
Gregory Vadas (3 copies)
Qualex International



Presentation to the
Federal Communications Commission

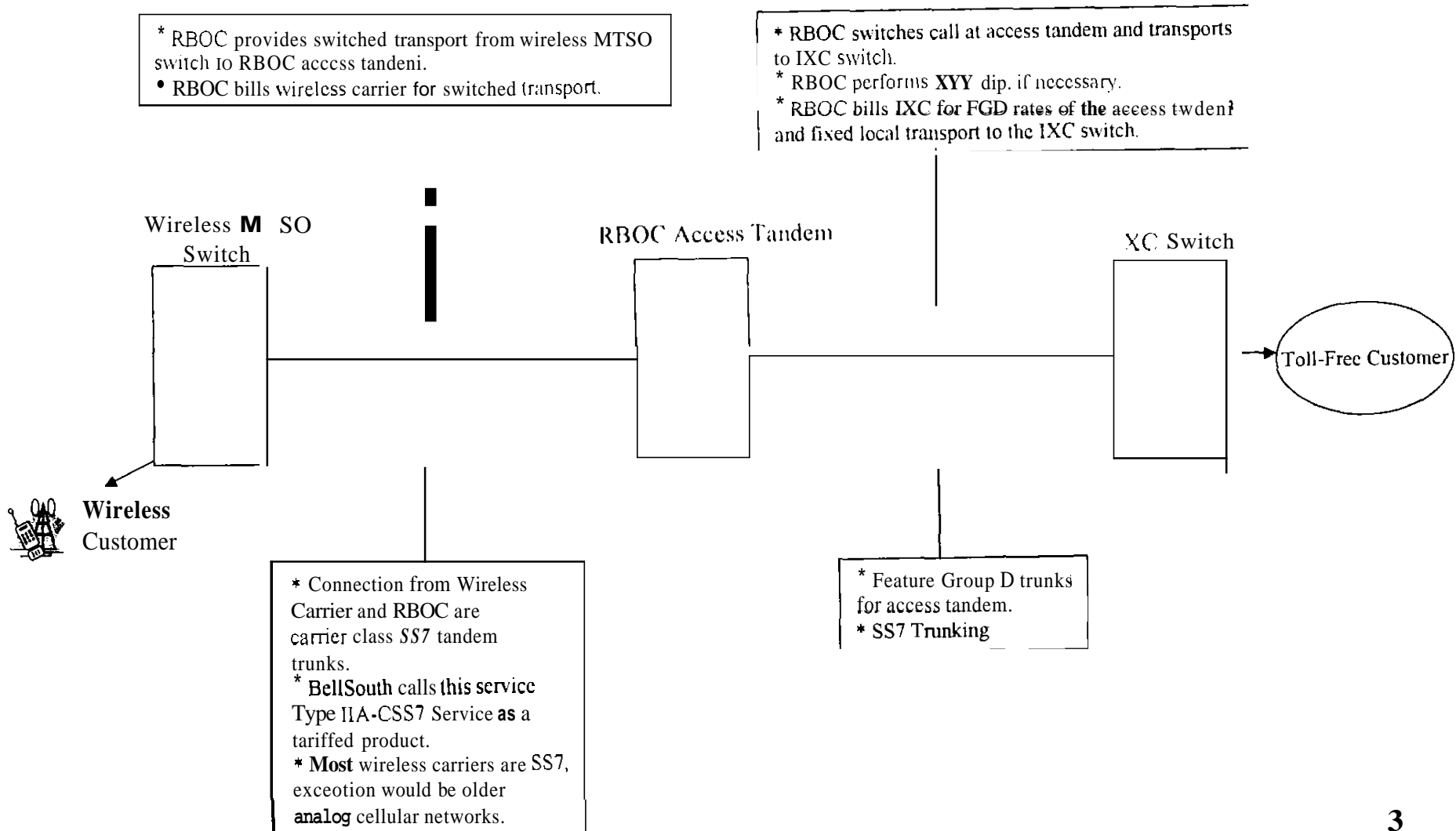
Opposition to US LEC Corp.'s Petition for
Declaratory Ruling, CC Docket No. 01-92

April 17, 2003

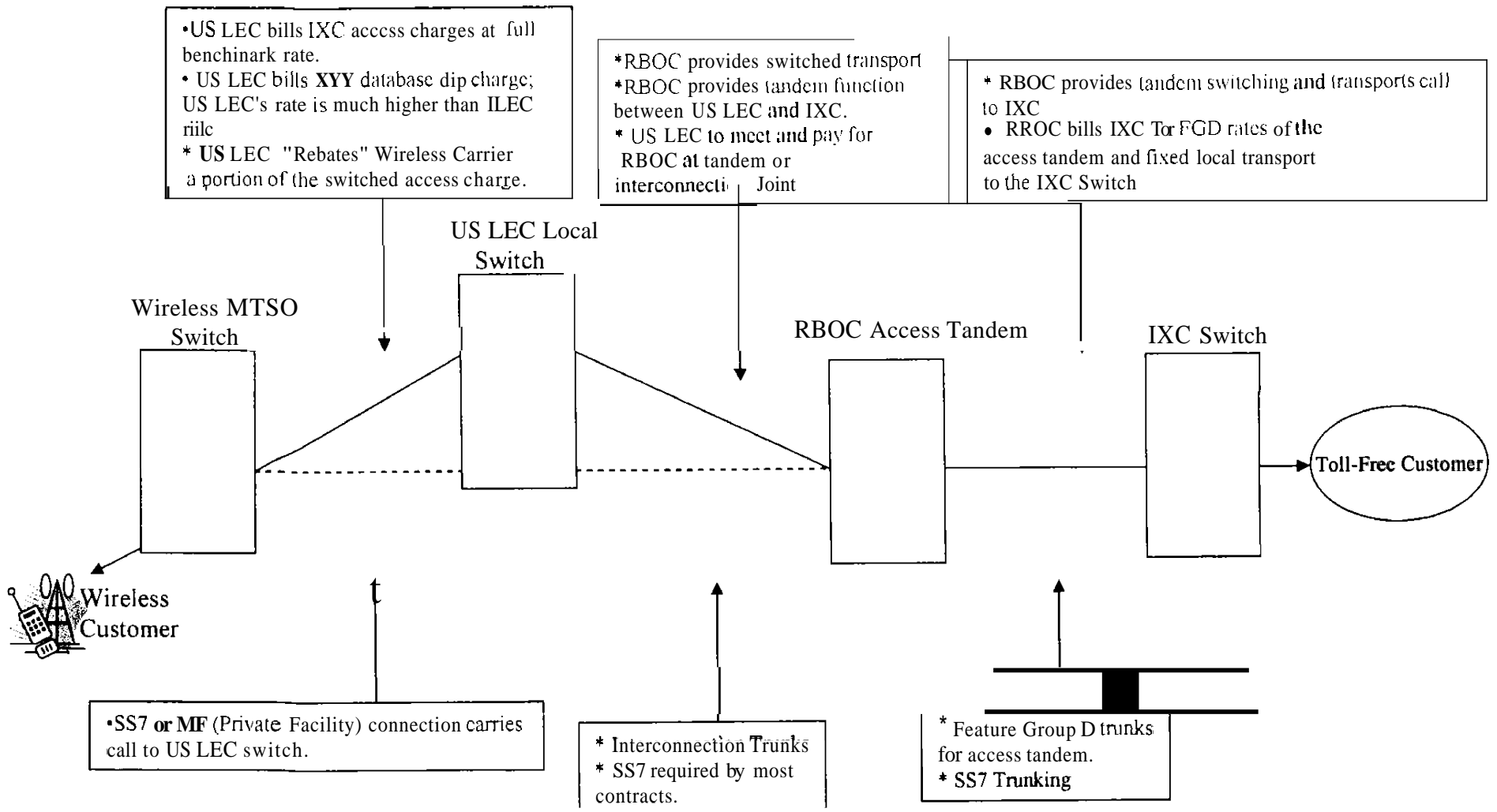
Overview

- The Commission should deny US LEC's petition.
 - US LEC seeks to validate its scheme whereby it charges for services that it does not perform, performs unnecessarily, or performs without the consent of all parties.
 - US LEC's scheme subjects IXCs to a potentially endless "daisy chain" of access charges.
 - US LEC's scheme is contrary to FCC rules and the public interest.

Traditional Wireless Toll-Free Call not involving US LEC



Wireless Toll-Free Call involving US LEC



US LEC's Access Charges Are Unlawful

- ITC^DeltaCom should not be required to pay access charges to US LEC in this scenario.
- Under US LEC's interpretation of the FCC's access charge rules, IXCs would be subjected to a potentially endless "daisy chain" of access charges.
- US LEC's scheme is contrary to the public interest, because it will result in higher rates to end user customers.

US LEC's Access Charges Are Unlawful (cont.)

- US LEC circumvents the Commission's *Sprint PCS Declaratory Ruling* by collecting access charges that the CMRS provider otherwise could not collect.
 - There is no arrangement between ITC^DeltaCom, US LEC, and the wireless carrier permitting the imposition of access charges.
 - A CMRS provider cannot unilaterally impose access charges on IXCs.
 - US LEC rebates a portion of the access revenues that it collects to the CMRS provider.

US LEC's Access Charges Are Unlawful (cont.)

- US LEC is charging for services that it does not perform.
- US LEC is in violation of the CLEC access charge rules.
 - US LEC cannot use the benchmark rate to increase the type and amount of access charges that it imposes on IXCs.
- The aggregate CLEC benchmark rate incorporates the following three components of access charges:
 - Local loop;
 - Local switching; and
 - Transport
- A carrier can charge only for those services that it actually performs.
 - In a CMRS-originated call, the CMRS carrier provides the loop and local switching. Therefore, there is no lawful basis for US LEC to impose access charges at the full benchmark rate.
- US LEC adds no value to the call. US LEC inserts itself as a faux transit carrier and performs duplicative and unnecessary functions.

Joint Billing Arrangements Do Not Justify US LEC's Calling Scheme

- There is no arrangement among ITC^DeltaCom, US LEC, and the wireless carrier permitting the imposition of access charges.
 - US LEC rebates a portion of the access revenues it collects with the CMRS provider.
- In a meet point billing arrangement, each LEC bills the IXC only for those services that it actually – and legitimately – performs.
- In a true meet point billing arrangement, ITC^DeltaCom would not have been billed for the same function by both US LEC and the ILEC.

Conclusion

- The Commission should deny US LEC's petition.
- Alternatively, the Commission at most should confirm that LECs can impose access charges – at reasonable rates – only for those functions that they legitimately perform with the consent of all parties.